

RESOLUTION NO. 2014-134-R

A RESOLUTION AUTHORIZING AND DIRECTING THE EXECUTION OF A CONTRACTOR SERVICE AGREEMENT WITH CHRIS'S TREE SERVICE REGARDING TREE AND LIMB REMOVAL AT DUBLIN PARK AND 717 CRESTVIEW DRIVE.

BE IT HEREBY RESOLVED by the City Council of the City of Madison, Alabama, that the Mayor is hereby authorized and directed to execute on behalf of the City of Madison, Alabama, the attached *Contractor Service Agreement* and that the City Clerk-Treasurer shall appropriately attest the same.

READ, APPROVED, and ADOPTED this 14th day of July, 2014.

Tommy Overcash, Council President
City of Madison, Alabama

ATTEST:

Melanie A. Williard, City Clerk-Treasurer
City of Madison, Alabama

APPROVED this _____ day of July, 2014.

Troy Trulock, Mayor
City of Madison, Alabama

CONTRACTOR SERVICES AGREEMENT

THIS AGREEMENT for contractor services is made and entered into by and between the City of Madison, Alabama, a municipal corporation, located at 100 Hughes Road, Madison, Alabama 35758, hereinafter referred to as "City," and Chris's Tree Service, located at 1209 Carter Grove Road, Hazel Green, Alabama 35750, hereinafter referred to as "Contractor."

RECITALS:

WHEREAS, on June 30, 2014, the Director of Finance declared the removal of a tree at Dublin Park and tree limbs from property located at 717 Crestview Drive, Madison, Alabama, to be an emergency affecting public health, safety, and convenience; and

WHEREAS, the Director of Finance has authorized a contract to be negotiated and made with Chris's Tree Service for such purchase; and

WHEREAS, the Director of Finance and the City Council has approved funds for such purchase;

NOW, THEREFORE, for and in consideration of mutual covenants and agreements herein set forth, the parties hereto agree as follows:

Section 1. CONTRACTOR'S RESPONSIBILITIES.

- A. Scope of Work: Contractor shall furnish all labor, equipment, transportation and materials necessary to remove a hazardous tree previously struck by lightening at Dublin Park and tree limbs from property owned by Paul Agarwal located at 717 Crestview Drive, Madison, Alabama, said services to be provided as described in Exhibit A attached herein.
- B. Change Orders: Contractor is expected to complete the project as quoted and specified within the financial parameters stated herein. However, if it shall be determined that a change order is needed during the performance of the Agreement, the Contractor shall promptly notify the City in writing on a Change Order Request Form supplied by the City, and shall not implement such change prior to giving notification to and receiving acceptance from the proper authorized representative of the City.
- C. Compliance with Legal Authority: Contractor agrees to comply with all applicable Federal, State and Local laws and regulations, including, but not limited to, those pertaining to wages and hours of employment.
- D. Job Site Responsibilities: Contractor shall, in a good workmanlike manner, do and perform all work and furnish all supplies, materials, machinery, equipment, utilities, facilities and means, except as otherwise expressly specified herein, necessary or proper to complete all the work required by this Agreement. The Contractor shall complete the work within the

time herein specified and in accordance with the provisions of this contract and the quote originally submitted by Contractor. The Contractor alone shall be responsible for the safety, efficiency and adequacy of the work performed hereunder and of the equipment used therefore.

- E. Contractor's Licenses and Permits: Contractor shall hold a current and valid contractor's license issued by the City of Madison and all appropriate and necessary licenses issued by the State of Alabama. It is the responsibility of the Contractor to obtain all other licenses and permits required by the State or by the City.

Section 2. FINANCIAL ARRANGEMENTS.

The total amount to be paid to Contractor by the City for the completion of all work required under this Agreement shall be **two thousand dollars and no cents (\$2,000.00)** as stated on the quote. However, in no event shall the total amount paid to Contractor exceed **fifteen thousand dollars (\$15,000.00)**. Payment of the contract amount shall be made to Contractor only after the City has inspected and accepted all work contracted to be completed and only upon receipt of a final invoice from Contractor, terms net thirty (30) days.

Section 3. EFFECTIVE DATE; TERM.

The instant agreement shall become effective on July 2, 2014.

This Agreement shall remain in effect until all services agreed to hereunder have been completed by Contractor and a final inspection of the project has been conducted by the parties. During such inspection, if there are any apparent and/or visible instances where Contractor's work fails to comply with the specifications and contract documents, or in the event any defects are discovered, the Contractor shall immediately make such alterations as are necessary to bring the work into compliance with the scope of work contained herein.

Section 4. TIME FOR COMPLETION; TIME OF THE ESSENCE.

The parties hereto mutually understand, agree, and state that, due to the emergency caused by the hazardous trees and the damage and inconvenience to the City and its citizens that could be caused by any delay in completion thereof, **time is of the essence** and the work contracted hereunder shall be completed no later than the close of business on the 30th calendar day following the effective date.

Section 5. TERMINATION.

Because time is of the essence, the parties agree that termination of this Agreement may occur only for cause and only after the terminating party has given the other party ten (10) days' written notice.

Section 6. WARRANTY.

Notwithstanding any inspections done by the City as the property owner or any acceptance by the City of the work performed, the Contractor shall assume full responsibility for the work performed hereunder.

Section 7. INDEPENDENT CONTRACTOR RELATIONSHIP.

City and Contractor hereby state that it is the express mutual intent of the parties that an independent contractor relationship be and hereby is established under the terms and conditions of this Agreement. They also state that it is further mutually understood and agreed that employees of the Contractor are not nor shall they be deemed to be employees of the City and that employees of the City are not nor shall they be deemed to be employees of the Contractor.

Section 8. INDEMNIFICATION AND INSURANCE.

- A. Contractor shall hold City harmless from all loss or damage forming the basis of any suit, judgment, execution, claim or demand, including costs and attorney's fees, which arise out of the Contractor's performance of its obligations under this Agreement.
- B. Contractor further agrees to maintain and keep in full force and effect at all times during the term of this Agreement sufficient property damage and personal injury and public liability insurance coverage to protect the City and the Contractor against any such claims, suits, judgments, executions or demands in the sum of not less than three hundred thousand dollars (\$300,000.00) per person for any one claim, one million dollars (\$1,000,000.00) for any one accident or occurrence, and not less than three hundred thousand dollars (\$300,000.00) for property damage as to any one accident or occurrence, all to be regarded without deductible and retentions. The Contractor shall name the City and its employees, agents and servants as additional insureds in said policy.
- C. All insurance policies as required of the Contractor in this Agreement shall be written by a company or companies authorized and qualified to do business in the State of Alabama. Contractor shall promptly file the certificates of all coverage required hereunder with the City Clerk within ten (10) days of the effective date of this Agreement.
- D. Each insurance policy and certificate shall provide, in effect, that the policy may not be cancelled, reduced in amount or modified by the insurer until at least thirty (30) days after the insurer shall have notified the City of such action in writing by certified mail, return receipt requested.

- E. Each insurance policy and certificate shall provide, in effect, that the policy will be renewed and further renewed unless the insurer shall give the City at least thirty (30) days' notice in writing by certified mail, return receipt requested, of the insurer's unwillingness to renew.
- F. This insurance shall provide primary coverage as relates to other insurance carried by the City.

Section 9. ACCESS AND SAFETY.

The City shall provide Contractor and its authorized agents and employees reasonable and convenient access to Kid's Kingdom during the course of the work to be done hereunder. Contractor shall adequately protect the property of the City as well as its own equipment and take all necessary precautions while performing the services contracted hereunder to protect all persons and property from damage or loss. Contractor shall take all necessary precautions for the safety of its employees and the City's employees and shall comply with all applicable provisions of the Federal, State and local safety laws and building codes to prevent accidents and injury to persons on, about, or adjacent to the premises where services are being performed. Contractor shall post all applicable signage and other warning devices necessary to protect the general public against potential hazards resulting from the performance of the services contracted hereunder.

Section 10. EXCUSED PERFORMANCE.

In the event performance of any terms or provisions hereof (other than the payment of monies due and owing) shall be delayed or prevented because of compliance with any law, decree or order of any governmental agency or authority, whether the same shall be local, state or federal in origin, or because of riots, war, public disturbances, strikes, lockouts, differences with workmen, fires, floods, acts of God or any other reason whatsoever which is not within the control of the party whose performance is interfered with and which, by the exercise of reasonable diligence, said party is unable to prevent, the party so suffering may, at its option, suspend, without liability, the performance of its obligations hereunder (other than the payment of monies due and owing) during the period of such suspension of performance of duties hereunder.

Section 11. ASSIGNING OF CONTRACT.

Contractor may not assign, transfer, convey, sell or otherwise dispose of any portion of this Agreement or any part thereof without the express, written consent of the City.

Section 12. AMENDMENT TO AGREEMENT; NON-WAIVER.

This Agreement constitutes the entire Agreement between the parties with respect to the outlined provision of contractor services and there are no other or further written or oral understandings or agreements with respect thereto. No variation or modification of this Agreement and no waiver of its provisions shall be valid unless in writing and signed by duly authorized representatives of Contractor

and City. This Agreement supersedes all other agreements between the parties for the provision of services outlined herein.

Section 13. GOVERNING LAW.

The laws of the State of Alabama shall govern this Agreement.

Section 14. NOTICES.

**Address all notices to the City
as follows:**

City of Madison Recreation Department
ATTENTION: Director
8324 Madison Pike
Madison, Alabama 35758

**Address all notices to the Contractor
as follows:**

Chris's Tree Service
ATTENTION: Chris Congo
1209 Carter Grove Road
Hazel Green, Alabama 35750

With a copy to:

City of Madison Legal Department
ATTENTION: City Attorney
100 Hughes Road
Madison, Alabama 35758

IN WITNESS WHEREOF, the undersigned hereby affirm that they have the authority to execute this Agreement on behalf of their respective entities for the entire term and have hereunto set their hands and seals on the day and year respectively noted.

City of Madison, Alabama, a municipal corporation

Attest:

By: _____
Troy Trulock, Mayor

Melanie A. Williard, City Clerk-Treasurer

Date: _____

STATE OF ALABAMA)
)
COUNTY OF MADISON)

I, the undersigned Notary Public, in and for said County, in said State, hereby certify that Troy Trulock and Melanie A. Williard, whose names as Mayor and the City Clerk-Treasurer, respectively, of the City of Madison, Alabama, are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of the City of Madison, Alabama, a municipal corporation.

Given under my hand and official seal this ____ day of _____, 20____.

Notary Public

Chris's Tree Service

By: 

Its: Owner

Date: 7/2/14

STATE OF ALABAMA

)

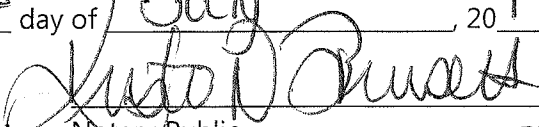
)

COUNTY OF MADISON

)

I, the undersigned Notary Public, in and for said County, in said State, hereby certify that Chris Congo, whose name as owner of Chris's Tree Service, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he/she, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 2nd day of July, 2014.


Notary Public

NOTARY PUBLIC
KRISTEN N. BRUSETH
ALABAMA, STATE AT LARGE
My Commission Expires October 5, 2015

**Scope of Work for the Takedown of
a hazardous tree and tree limbs at
Dublin Park, Madison, Alabama and private property owned by Paul Agarwal
located at 717 Crestview Drive, Madison, Alabama**

This scope of work is for the removal of one (1) hazardous tree and tree limbs located at Dublin Park and 717 Crestview Drive. The tree is to be taken down at Dublin Park, tree limbs to be removed from the private property, and all debris to be hauled away.

This work has been declared an emergency due to the related safety issues and due to the high traffic at Dublin Park. Accordingly, the takedown must be done as soon as weather permits.

Further, the work must be done in a way that there is no damage to Dublin Park or 717 Crestview Drive. All operations must comply with ANSI Z133 Tree Safety Standards.